

CCRB CASE CLOSING FORM

Investigator assigned: Kranich		Team: 6	CCRB#: 9700897	FADO: A, D
Date of incident: 03/04/97 and 03/08/97	Time of incident: 1910 hours and 1530 hours	Location of incident: West 118 th Street and inside the 028 stationhouse.	Pct. of occurrence: 028	Date SOL expires: 09/04/98
Date reported: 03/11/97	Time reported: 1426 hours	To whom/where/how reported: In person to 028 precinct.		
Complainant: § 87(2)(b) § 87(2)(b)		Home address: § 87(2)(b)		
Victim(s): Same as above.				
Witness(es):				
Subject officer(s) (include rank): PO Dwayne Davis PO Tawaina O'Neal Sgt Edward Caban		Shield: 28582 19346 01910	Tax: 906067 906979 900040	Command: 028 precinct 028 precinct 028 precinct
Witness officer(s) (include rank):				
Allegation(s) by letter: A) PO Davis abused his authority when he threatened to arrest Ms. § 87(2)(b) saying to her "I'm going to put you in handcuffs, you're going to jail" in violation of PG 110-01. B) PO O'Neal abused her authority when she physically threatened Ms. § 87(2)(b) saying to her "I'm going to fuck you up" and "we can do it right here" in violation of PG 104-01, page 11. C) PO Davis was discourteous when he said "fuck you and fuck your son" and "fuck you" to Ms. § 87(2)(b) in violation of PG 104-01, page 3. D) PO O'Neal was discourteous when she said "fuck that shit" and "fuck it then" to Ms. § 87(2)(b) in violation of PG 104-01, page 3. E) Sgt Caban abused his authority when he refused to provide the names of PO Davis and PO O'Neal to Ms. § 87(2)(b) in violation of PG 104-01, page 3.				Recommendation(s): § 87(2)(g)

Summary of Facts

On March 4, 1997 at approximately 1907 hours PO O'Neal and PO Davis accompanied § 87(2)(b) to serve a summons on § 87(2)(b) § 87(2)(b) to appear at family court regarding visitation rights involving their child. Mr. § 87(2)(b) was not sure in which apartment Ms. § 87(2)(b) lived, so he was asked by the POs to accompany them so that he might identify Ms. § 87(2)(b) when she was located. The three proceeded to apartment § 87(2)(b) PO O'Neal knocked on the door, and when Ms. § 87(2)(b) asked who it was from inside PO O'Neal responded that it was the police. Ms. § 87(2)(b) now opened the door and PO O'Neal asked her "are you § 87(2)(b) § 87(2)(b) and Ms. § 87(2)(b) replied "how can

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I help you?" PO O'Neal now again asked "are you § 87(2)(b) § 87(2)(b) and Ms. § 87(2)(b) replied "no" and then shut the door to her apartment. Mr. § 87(2)(b) now said to the POs "that's her" so PO O'Neal again knocked on the door and when Ms. § 87(2)(b) opened it again PO O'Neal asked her for identification. Ms. § 87(2)(b) replied that she had to get dressed and retrieve her identification from her apartment so she went inside for a moment and returned shortly afterward to the POs in the hall. PO O'Neal now explained what the summons was regarding and then handed it to her, along with her identification. PO O'Neal, PO Davis and Mr. § 87(2)(b) all now walked to the elevator and left the building.

On March 5, 1997 at approximately 1630 hours Ms. § 87(2)(b) went to the 028 stationhouse because she was upset with the conduct of PO Davis and PO O'Neal and spoke with Sgt Caban, who offered Ms. § 87(2)(b) the possibility of an apology from the POs involved once he identified them. Ms. § 87(2)(b) accepted this possibility and Sgt Caban told her to return on 03/08/97 so that they could speak to one another.

On March 8, 1997 at approximately 1530 hours Ms. § 87(2)(b) returned to the 028 stationhouse, where PO O'Neal and Sgt Caban were waiting. After PO Davis returned from patrol, all four of the adults and Ms. § 87(2)(b) young son entered a small room inside the stationhouse. Ms. § 87(2)(b) now explained what she felt had occurred and then a conversation ensued, during which the POs were unwilling to apologize to her, so the conversation eventually ended and everyone left the room. Ms. § 87(2)(b) now stated that she wanted to file a CCRB complaint and Sgt Caban gave her the proper form and told her to fill it out and then return to the 028 stationhouse.

On March 11, 1997 Ms. § 87(2)(b) returned to the 028 stationhouse and filed her complaint in person.

Analysis

§ 87(2)(g) First of all, evidence apart from the statements of witnesses who were involved in the incident in question does not exist, necessitating a dependence on these statements that does not allow for a broad understanding of the series of events. In addition, the similarity between all of the witnesses' statements regarding the bulk of the incident apart from the allegations of misconduct also increases the difficulty of completely understanding what occurred between the participants. § 87(2)(g)

With respect to the statements of the different participants in the two incidents related to this complaint, as was mentioned above, they are very similar on many details. This is most apparent when the statements of Ms. § 87(2)(b) PO O'Neal and PO Davis regarding March 4th, 1997 are examined and compared. All three agreed that the two POs arrived at Ms. § 87(2)(b) home in the company of § 87(2)(b) who is Ms. § 87(2)(b) ex-husband, and served her a summons to appear in family court despite her objections. The only major difference between the three recollections is the claim by Ms. § 87(2)(b) that PO Davis threatened to arrest her, which the POs denied. A somewhat similar situation arises with regards to the incident on March 8th, 1997, but the stories are not quite as similar in this case. All four of the witnesses to this incident, who were the prior three in addition to Sgt Caban, recalled a similar scenario involving a meeting of the four of them inside the 028 stationhouse. All of these witnesses recalled that the purpose of the meeting was to have the POs apologize for behavior on March 4th that Ms. § 87(2)(b) considered rude, and all of these witnesses recalled that no apology was offered. The only differences between the four recollections are regarding what was said during this meeting and in what manner it was said. Sgt Caban stated that both Ms. § 87(2)(b) and the POs calmly explained their

recollections of the interaction between them, while the POs and Ms. § 87(2)(b) had recollections of a more confrontational encounter that ended with the POs leaving the room angrily. In addition, Ms. § 87(2)(b) recollection differed from that of the other three witnesses due to her allegations that the POs used profanity and verbally abused her. All in all, none of these versions of the same encounter carries any more validity than any of the others and they are all feasible given the circumstances.

Finally, the only element of this investigation that still requires explanation is the failure to interview the one witness present during the incident on March 4th who has not contacted, § 87(2)(b). There are two major reasons that Mr. § 87(2)(b) was not interviewed, and they are the fact that Ms. § 87(2)(b) could or would not provide his contact information, and the fact that the POs were also not in possession of this information. It was possible that Mr. § 87(2)(b) could be contacted using information taken from a copy of the family court summons delivered to Ms. § 87(2)(b) but this copy was unavailable. Aside from these difficulties, Mr. § 87(2)(b) statement is also not particularly important to the investigation because he is probably far from an impartial observer when it concerns Ms. § 87(2)(b) due to the fact that they are involved in an ongoing custody dispute.

§ 87(2)(g)

Investigator:

[Signature]

Date:

8/22/97

Supervisor:

[Signature]

Date:

8/27/97

Reviewed by:

Date:

Reviewed by:

Date:
